THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.18837 of 2005

DATED:29.8.2005

Between:

B. Ramesh Reddy, S/o.C.K.Reddy

R/o.H.No.8-2-248/A/5, Road No.3, Banjara Hills

Hyderabad and another

…Petitioners

And

The Director of Mines & Geology, Medak and others.

…Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.18837 OF 2005

ORDER:

The petitioners assail the demand notice issued by fourth respondent purporting to be under Rule 26(3)(ii) of the A.P.Minor Mineral Concession Rules, 1966. By the impugned order fourth respondent come to a conclusion that petitioners evaded to pay seigniorage fee on the construction material used by them in constructing godown, at Zaheerabad. As informed to fourth respondent by second respondent, petitioner was directed to pay a sum of Rs.4,69,134/- towards normal seigniorage fee and penalty amount at five times the normal seigniorage fee, totaling a sum of Rs.28,14,804/-.

Learned counsel for the petitioners, Sri M.V.S.Suresh Kumar, submits that the impugned order is vitiated for two reasons. First, he would contend that second respondent has no jurisdiction to visit and inspect the petitioners' godown. Secondly he would urge that the penalty imposed is arbitrary.

Learned Assistant Government Pleader for Mines and Geology brought to the notice of this Court judgment in **L.Venkateswara Rao v. M/s.Singareni Collieries Co. Ltd.** which has upheld Rule 26 of the Rules observing that the Rule prescribing penalty of five times the normal seigniorage fee cannot be said to be unreasonable.

A reading of Rule 26(3)(ii) of the Rules would show that when verification is done by the officials under Rule 26(3)(i), the person who is owner of premises has to produce necessary documentary proof in token of having paid the mineral revenue to the Government. In the absence of any such proof, it is always permissible to the competent authority to determine the mineral revenue and penalty thereon. In that view of the matter, *prima facie,* the action initiated by fourth respondent at the behest of second respondent cannot be found fault with. As the petitioner is also questioning the penalty on the actual nominal seigniorage fee, this Court is of considered opinion that this matter may be looked into by the competent appellate authority, namely, Director, Mines and Geology under Rule 35 of the Rules. Liberty is given to petitioner to file appeal within three weeks from today. To enable the petitioner to obtain appropriate orders, there shall be stay of recovery of penalty amount for a period of three weeks from today. As and when appeal is filed by petitioners before Director of Mines and Geology under Rule 35 of the Rules, the same shall be considered and appropriate orders shall be passed within a period of four weeks thereafter. The appellate authority shall decide the matter without in any manner being influenced by observations made hereinabove.

The Writ Petition is accordingly disposed of. No costs.

_____

(V.V.S.RAO, J)

29.8.2005

bnr